

GOVERNMENT OF THE DISTRICT OF COLUMBIA
ZONING COMMISSION

VIRTUAL PUBLIC MEETING
VIA WEBEX

Monday, November 13, 2023

The Public Meeting by the District of Columbia Zoning Commission convened via videoconference pursuant to notice at 4:00 p.m. EDT, Anthony Hood, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairperson
ROBERT MILLER, Vice Chairperson
TAMMY STIDHAM, Commissioner
JOSEPH S. IMAMURA, Commissioner

OFFICE OF ZONING STAFF PRESENT:

SHARON SCHELLIN, Secretary
PAUL YOUNG, Data Specialist

OFFICE OF ZONING LEGAL DIVISION STAFF PRESENT:

DENNIS LIU, Esquire

The transcript constitutes the minutes from the Public Meeting held on November 13, 2023.

C O N T E N T S

Case No. 15-27G
350 Morse CPK Owner C2, LLC

P R O C E E D I N G S

(4 : 00 p.m.)

3 CHAIRPERSON HOOD: Good afternoon, ladies and
4 gentlemen. Today's date is November 13, 2023. We're
5 convening and broadcasting this public hearing by video
6 conferencing. My name is Anthony Hood. Joining me are Vice
7 Chair Miller, Commissioner Stidham, and Commissioner
8 Imamura.

9 We're also joined by the Office of Zoning staff,
10 Ms. Sharon Schellin and Mr. Paul Young, who will be handling
11 all of our virtual operations. And Mr. Dennis Liu who will
12 be -- who is Office of Zoning and Legal Division counsel. I
13 will ask all others to introduce themselves at the
14 appropriate time.

15 The virtual public hearing notice is available on
16 the Office of Zoning's website. This proceeding is being
17 recorded by a court reporter, and the platforms used are
18 Webex and YouTube Live. The video will be available on the
19 Office of Zoning's website after the hearing.

20 All persons planning to testify should have signed
21 up in advance and will be called by name at the appropriate
22 time. At the time of signup -- at the time of signup, all
23 participants who have completed the oath or affirmation
24 required by subtitle Z-48.7. Accordingly, all those listed
25 on Webex or by phone will be muted during the hearing, and

1 only those who have signed up to participate or testify will
2 be unmuted at the appropriate time.

3 When called, please state your name before
4 providing your testimony. When you are finished speaking,
5 please mute your audio. If you experience difficulty
6 accessing Webex or if you're a telephone call-in or have not
7 signed up, then please call our OZ hotline number 202-727-
8 0789. If you wish to file written testimony or additional
9 supporting documents during the hearing, then please be
10 prepared to describe and discuss it at the time of your
11 testimony.

12 The subject of this evening's case, Zoning
13 Commission case number 15-27G, 350 Morse CPK Owner CT -- C2,
14 LLC - Modification of Significance of the first stage and
15 second stage PUD buildings C2 at square 3587, lot 834.

16 Again, today's date is November 13th, 2023. The hearing
17 will be conducted in accordance with revisions of 11-Z DCMR
18 Chapter 4 as follows: preliminary matters, applicant's case.

19 The applicant has up to 60 minutes, but what I'm
20 going to ask the applicant to do is just tell us -- I -- I
21 know this has had a pre-approval, is residential, went to
22 offers, now we're back in residential. If he can just touch
23 on that, especially for our newer members. I think we had
24 vetted a lot of this previously, maybe twice.

25 But either way, maybe take about five or ten

1 minutes -- no more than ten minutes just kind of bringing
2 everybody up to speed. Again, we have report of the other
3 government agencies, report of the Department of
4 Transportation and the Office of Planning, report to ANC --
5 in this case ANC 5-B. Testimony of organizations will be
6 five minutes, individuals three minutes, and we will hear
7 the following order from those who are in support,
8 opposition, or undeclared. Then we'll have rebuttal or
9 closing by the applicant.

10 Again, the OZ hotline is 202-727-0789 for any
11 concerns during these proceedings. At this time, the
12 commission will consider any preliminary matters. Does the
13 staff have any preliminary matters?

14 MS. SCHELLIN: Proffered expert witnesses, taken
15 the two have previously accepted: Erwin Andres in
16 transportation, Brandice Elliott in planning -- land use
17 planning. So if the commission would accept them in this
18 case, that would be great. And then we can go on to the
19 other three.

20 CHAIRPERSON HOOD: All have been accepted
21 previously. Correct?

22 MS. SCHELLIN: Those two.

23 CHAIRPERSON HOOD: Okay. Any objections? Okay.
24 We will consider -- continue that status.

25 MS. SCHELLIN: Okay. And we didn't find these

1 three on our list from before: Matthew Seneman from -- in
2 engineering, Matt Perez in engineering, and Davis Terani as
3 project architect. Their resumes are all at 15-B.

4 CHAIRPERSON HOOD: Okay. I -- I don't know about
5 anybody, but I don't think we need that because we have
6 already dealt with a lot of this. Let me hear from others.
7 Let me hear from, especially the architect and maybe Vice
8 Chair Miller. We have heard -- I don't know how far we've
9 gone in this case. This has been vetted on this commission
10 a couple times. I'm not sure about the balcony. I can't
11 remember.

12 But let me hold -- let's do this. Let me hold
13 that in abeyance until I bring Mr. Freeman up because I
14 don't know if we really need that.

15 MS. SCHELLIN: Okay. Other than that, we have --
16 let's see. We have Joel Lawson from OP. I know DDOT does
17 not plan on testifying this evening. We have the 5 -- ANC
18 5-D reported Exhibit 12. OP hearing reported Exhibit 25.
19 We do have a DDOT reported Exhibit 26, and I believe that is
20 all I have for you and ready to turn it over to you,
21 Chairman Hood.

22 CHAIRPERSON HOOD: Okay. Let's bring up Mr.
23 Freeman and his team.

24 (Pause)

25 MR. FREEMAN: Can you -- can you hear me?

1 CHAIRPERSON HOOD: Yeah, we can hear you. We
2 can't see you, but we can hear you.

3 MR. FREEMAN: I'm not sure why. Let me try one
4 other thing here.

5 (Pause)

6 CHAIRPERSON HOOD: Okay. We can see you now.

7 MR. FREEMAN: Can you see and hear me?

8 CHAIRPERSON HOOD: Yes, we can see you and we can
9 hear you. Yes.

10 MR. FREEMAN: Sorry, I had to switch my equipment.
11 For the record, my name is Kyrus Freeman with the law firm
12 of Holland and Knight, here on behalf of the applicant.
13 Thank you for your time tonight. I'm happy to proceed as
14 the commission would -- would desire.

15 I do have just one quick clarification point. I
16 know we typically have Ms. Elliot as our expert witness in
17 planning, but we're not proffering her as an expert in this
18 particular case. So for the purposes of the record and
19 clarification, Ms. Elliot is -- has not -- has not
20 participated in this case and is not a -- not a witness for
21 us tonight.

22 CHAIRPERSON HOOD: Okay, thank you. You have --
23 you have proffered three additional people. And Ms.
24 Schellin, what were -- give me one name at a time, Ms.
25 Schellin.

1 MS. SCHELLIN: David Tehrani.

2 CHAIRPERSON HOOD: This is --

3 MS. SCHELLIN: I'm sorry Navid Tehrani. Sorry.

4 CHAIRPERSON HOOD: Okay. You're proffering him as
5 what, Mr. Freeman?

6 MR. FREEMAN: So it would an expert in
7 architecture, but to the extent that the commission just has
8 -- has some questions, we don't -- we don't have to proceed
9 with experts. I'm happy to just kind of hit the highlights
10 and -- and address a couple things that have changed between
11 submission of the application and today.

12 CHAIRPERSON HOOD: Okay. Let's hold -- let's hold
13 off on the expert status for now. Maybe another case. But
14 let's see, because we've -- we've looked at a lot of this
15 previously and -- and previously.

16 So let's go ahead -- unless my colleagues feel
17 otherwise, let's go ahead and hear what some of the changes
18 are, and let's focus on that. And let's see how questions
19 go. If our questions go to a lot of architectural, which I
20 don't think, but if they do maybe we'll bring him back up
21 and we'll him expert status.

22 All right. Let's go ahead, let's start off with
23 that, Mr. Freeman. About five or ten minutes.

24 MR. FREEMAN: Okay. Well I'll ask Mr. Young if he
25 could bring up the slide deck. I will -- I will not go

1 through the slide deck, and I will kind of highlight the
2 pages that I'd want to go to.

3 Obviously, this is in the record. I'm not going
4 to spend a lot of time on the full deck, but Mr. Young, if
5 you could go to slide four, please. This building, we call
6 it C2, it's part of a multi-phase project, multi-building,
7 multi-use project that was -- this is probably the third
8 time we've been at the zoning commission on this -- on this
9 building.

10 It was originally approved for residential, then
11 we came back and converted it to office, and we're now back
12 here seeking approval to turn it back into residential.
13 It's 232 units, approximately 5,645 square feet of retail
14 with maker space on the first floor. All the amenities for
15 this project were set as part of the first stage approval.

16 And in this case, we're providing 11 percent
17 affordable housing, half at 60 percent MFI, half at -- half
18 at 50 percent MFI. That's actually an improvement because
19 when it was originally approved, half was at 50 -- half was
20 60, half was at -- at 80.

21 Our materials in the record kind of go through in
22 detail how the project complies with all of the applicable
23 PUD standards. So slides 5, 6, 7, 8, 9, 10, 11, and 12 are
24 our PUD comprehensive plan analysis. Again, I'm not going
25 to go through all of that, but sufficed to say the project

1 complies with the comprehensive plan as viewed through the
2 racial equity lens as indicated in the record and confirmed
3 by the Office of Planning.

4 Next slide, Mr. Young, if you could maybe go to
5 slide 13. Mr. Chairman, members of the commission, the
6 project has been approved by the Office of Planning. They
7 asked for four clarifications, I'll come back to those in a
8 second. It's been reviewed and approved by DDOT with no
9 objection, and we have the support of ANC 5-D.

10 A couple of the things that came up in the OP
11 report -- Mr. Young, if you could go to slide 19. Well this
12 is a building -- I'm sorry, go back. Just -- I assume you
13 all have seen the building on page 403, slide 15. This is
14 the building, it's residential. You can see that we have
15 balconies on the front and side. If you could go to slide
16 19, Mr. Young.

17 One of the things that the Office of Planning
18 asked for was the addition of balconies. When we originally
19 filed this application it had, I guess, three ground-level
20 terrace balconies. With our pre-hearing submission, we
21 increased that to 12 balconies. And here tonight in
22 response to OP's most recent report, we've increased that to
23 24 balconies.

24 So Mr. Young, if you could go to page 25 of the
25 slide deck. You can see all of the locations where we have

1 added balconies at the rear of the building. And again,
2 that's directly in response to OP comments.

3 We've also increased the amount of solar since --
4 since set down. Originally it was at 250 square feet. We
5 are now at 500 square feet of solar as shown on two slides,
6 this slide, 25. If you could go to the next slide, Mr.
7 Young, it's also on 517. You can see what we did is we have
8 solar panels kind of along the primary walls, facades of the
9 penthouse.

10 We've also in response to OP, Mr. Young, if you
11 could go to slide 27. We met with DOEE, and we confirmed
12 that we are utilizing the right LEED standard, which is LEED
13 multi-family for mid-rise version four. That was a question
14 that OP asked us to clarify, and we are -- we are meeting
15 that standard.

16 And as recently as Thursday met with DD -- DOEE to
17 confirm that. DDOT had no objections. One, they asked us
18 to implement the transportation demand management plan;
19 we've agreed to do that. Implement the loading management
20 plan; we've agreed to do that.

21 And they asked us, Mr. Young, if you could go to
22 slide 20, backwards. Sorry to have you jumping around. But
23 they asked us to agree to install an ADA slope or curb ramp
24 at the southwest corner of Neal Place, and you can see we've
25 agreed to do that as noted on this sheet 501.

1 So Mr. Chairman, that hopefully gives a good
2 summary of the application and answers any questions that --
3 that might have -- that you might have had. But I'm happy
4 to answer questions. I should say we have our full
5 development team. The owner is on, the architects are on,
6 our traffic consultant is on, our civil engineers are on.
7 So we have a full team. We're happy to answer any questions
8 you have.

9 CHAIRPERSON HOOD: Thank you, Mr. Freeman, for
10 running through that. Now how many times -- how many times
11 has the commission -- not necessarily all the commission
12 members here now, how many times have we seen this?

13 MR. FREEMAN: You've seen -- this will be your
14 third time seeing this building. This is likely your fifth
15 or sixth time seeing -- maybe seventh, I stopped counting --
16 seeing various components of the overall project.

17 CHAIRPERSON HOOD: And basically what I see here
18 when I was reading the record, we went from -- let me see if
19 I get this correct. We started off at office -- office use
20 -- no. We started residential, then we went to office, now
21 we're back in residential. Did I get that right?

22 MR. FREEMAN: We started with the flexibility of
23 uses. It could have been office, residential, or a hotel.
24 That was the first stage. Then we came back and did an --
25 an approval for office, and now we're back doing

1 residential.

2 So we haven't changed anything. It's not a larger
3 building in terms of gross floor area. It's not increased
4 in terms of height. It's the same envelope that was always
5 approved.

6 CHAIRPERSON HOOD: Okay. All right. I don't have
7 any further questions. Vice Chair Miller, let me start off
8 with you first. Just when I -- when I looked at the
9 balconies, I thought about you myself. But start off with
10 Vice Chair Miller.

11 VICE CHAIR MILLER: Well thank you. Yeah, I -- I
12 hope you saw me in the sunshine on the balcony. Thank you,
13 Mr. Freeman, for that succinct summary of -- of the project
14 and the changes since we last saw it, and the changes that
15 you made. We appreciate in response to the Office of
16 Planning's concerns about the -- about the balconies, and
17 you've -- this is the second time you've increased it.

18 I think -- so we're up to 24. You doubled it from
19 the -- from where you were, and you doubled the solar
20 panels. That's all well and good, as well as the deeper
21 affordability level for the housing. That certainly goes a
22 -- goes a long way, the half at 50 and half at 60 percent
23 median family income goes toward the comprehensive plan
24 housing goals as well as the housing equity goals and racial
25 equity principles.

1 So I really don't have any questions, Mr.
2 Chairman. I'll defer to my other commissioners who might
3 have -- may have some questions or comments. Thank you, Mr.
4 Chairman. Thank you, Mr. Freeman, and your team for
5 bringing this forward. Hopefully, this will be -- the third
6 time will be the charm if that -- if this is the third time.

7 CHAIRPERSON HOOD: Okay. Thank you. Commissioner
8 Imamura, do you have any questions or comments?

15 CHAIRPERSON HOOD: Okay. Commissioner Stidham,
16 any questions or comments?

17 COMMISSIONER STIDHAM: No, I agree with my fellow
18 commissioners, and I think we're good to go here.

19 CHAIRPERSON HOOD: Okay. Thank you. Let me see,
20 Ms. Schellin, do we have anyone here from ANC 5-D? I think
21 -- yeah, 5-D.

22 MS. SCHELLIN: Their representative is --

23 CHAIRPERSON HOOD: It's probably Chair --
24 Chairperson Salvador.

25 MS. SCHELLIN: And that person is not on.

1 CHAIRPERSON HOOD: Okay.

2 MS. SCHELLIN: So no.

3 CHAIRPERSON HOOD: Okay. Do we have any -- any
4 representatives from any other government agencies, Ms.
5 Schellin?

6 MS. SCHELLIN: No.

7 CHAIRPERSON HOOD: You said, no. Okay. And DDOT?
8 Do we have anybody from DDOT?

9 MS. SCHELLIN: No.

10 CHAIRPERSON HOOD: Okay. Let's go to the Office
11 of Planning

12 MR. JESICK: Thank you, Mr. Chairman and members
13 of the Commission. OP recommends approval of the proposed
14 modification which as the commission has noted, is to return
15 the building to what it was originally approved for. So it
16 is a fairly straightforward case, and we can largely rest of
17 the record.

18 The proposal would not be inconsistent with the
19 comprehensive plan and would further a number of plan
20 policies related to racial equity. As the commission noted
21 first and foremost among those, a provision of housing and
22 affordable housing. And we also appreciate the applicant
23 taking a hard look at our suggestions in our report and
24 increasing the amount of solar and the number of balconies
25 and confirming the appropriate LEED system for the building.

1 So in summary, this application meets the criteria
2 for approval. Our full analysis is in our written report,
3 and I'm available for any questions. Thank you.

4 CHAIRPERSON HOOD: Thank you, Mr. Jesick. Any
5 questions of Mr. Jesick, anyone? Okay. I'm seeing heads
6 nod "no". Okay. Okay. Thank you, Mr. Jesick. We
7 appreciate -- oh, let me see. Mr. Freeman, do you have any
8 questions? I guess not, all that support. Okay.

9 MR. FREEMAN: No, sir.

10 CHAIRPERSON HOOD: All right. Thank you. Thank
11 you, Mr. Jesick. I will say that the office -- I mean
12 Department -- District Department of Transportation, and Mr.
13 Freeman's already alluded to accepting all the conditions,
14 that it has that in their recommendation, they have no
15 objection with those two conditions that they -- I believe,
16 that they have already negotiated and worked with the
17 applicant on.

18 Also the ANC report, as Ms. Schellin stated, we
19 don't have anyone from the ANC. And I think this is the
20 updated ANC report, which was in June, but I believe this is
21 Commissioner Salvador's signature. I might -- I'm not sure.

22 But anyway, it says, "ANC 5-D Chair". I know he's
23 the chair. But anyway, they voted in support of this
24 application, building C2 as described -- or mentioned in
25 this case. On May the 8th, 2023, at a regular scheduled

1 meeting to do with ANC 5-D with a quorum of Commissioners in
2 public present, the above matter came before this. The
3 commission voted six-zero with one abstention to support
4 this application.

5 All right. Ms. Schellin, do we have anyone who's
6 here to testify in support, opposition, or undeclared?

7 MS. SCHELLIN: We have no one signed up to testify
8 in any category.

9 CHAIRPERSON HOOD: So that says a lot about this
10 -- the merits of this case. And work has been done, I
11 guess, three times at least by us and maybe seven times by
12 the applicant. All right. That's probably the most cases
13 I've ever heard -- heard like this.

14 Anyway, Mr. Freeman, could you give us some
15 closing? I'm sure you have no rebuttal.

16 MR. FREEMAN: No. Just as always, thank you
17 Commissioners for your time. And I think as one of the
18 Commissioners said, I think this case is ripe for approval,
19 so we would ask the Commission to -- actually, this case is
20 just final action, so we would request that the commission
21 take final action to approve our application.

22 CHAIRPERSON HOOD: Okay. Thank you. Any further
23 questions or comments from my colleagues? Okay. Without
24 further ado, somebody like to make a motion?

25 COMMISSIONER IMAMURA: I move, Mr. Chairman, to --

1 that the Zoning Commission take final action on Zoning
2 Commission case number 15-27G, 350 Morse CPK Owner C2 LLC,
3 Modification of Significance 1st and 2nd-Stage PUD, building
4 C2 at Square 3587, Lot 834. And for a second?

5 VICE CHAIR MILLER: Second.

6 CHAIRPERSON HOOD: It has been moved and properly
7 second. Any further discussion? Not hearing any, Ms.
8 Schellin, would you do a rollcall vote, please?

9 MR. FREEMAN: Commissioner Miller?

10 VICE CHAIR MILLER: Yes.

11 MS. SCHELLIN: Commissioner Imamura?

12 COMMISSIONER IMAMURA: Yes.

13 MS. SCHELLIN: Commissioner Hood?

14 CHAIRPERSON HOOD: Yes.

15 MS. SCHELLIN: Commissioner Stidham?

16 COMMISSIONER STIDHAM: Yes.

17 MS. SCHELLIN: The vote is four to zero to one to
18 approve final actions in Zoning Commission case number 15-
19 27G, the minus one being third mayoral appointee seat which
20 is vacant. If we could have the applicant provide us a
21 draft order within two weeks, that would be great.

22 I would ask the Commission, are you going to
23 authorize a summary order for this one?

24 CHAIRPERSON HOOD: Yes, I think this -- I think we
25 can do a summary order, yes. In fact --

1 MS. SCHELLIN: Okay.

2 CHAIRPERSON HOOD: -- otherwise the summary order.

3 MS. SCHELLIN: Okay.

4 MR. FREEMAN: Thank you.

5 MS. SCHELLIN: Thank you.

6 CHAIRPERSON HOOD: Okay. Is that all we have --

7 MS. SCHELLIN: Okay.

8 CHAIRPERSON HOOD: -- Ms. Schellin? Okay.

9 MS. SCHELLIN: That's it.

10 CHAIRPERSON HOOD: Okay. The Zoning Commission
11 will meet again on November the 16th. This is Q Partners
12 LLC, Zoning Commission case number 23-18, it will be on the
13 same platforms at 4 p.m. And I want to thank everyone for
14 their work in this case tonight. And with that, this
15 hearing is adjourned. Good night.

16 (Whereupon, the above-entitled meeting was
17 adjourned.)

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REPORTER CERTIFICATE

3 This is to certify that the foregoing transcript
4 In the matter of: Public Meeting
5 Before: D.C. Zoning Commission
6 Date: 11-13-2023
7 Place: Teleconference
8 was duly recorded and accurately transcribed under my
9 direction; further, that said transcript is a true and
10 accurate record of the proceedings.

Gary L. Shell

Gary Euell